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In re Application of

Hee-Chul Han

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OFFICE OF PETITIONS

Application No. 10/767,468

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DECISION ON PETITION

Filed: January 30, 2004

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Attorney Docket No. Q79411

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed August 31, 2007.

The petition is **granted**.

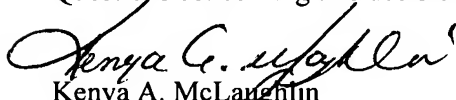
This application was held abandoned on March 23, 2007, after no reply was received to the non-final Office action mailed December 22, 2006. The notice set forth a shortened statutory period for reply of three months from its mailing date. Extensions under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on March 23, 2007. A Notice of Abandonment was mailed July 10, 2007. The instant petition was filed on August 31, 2007. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. It is also noted that the non-final Office action was mailed to an incorrect address and would not have been properly received by petitioner. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2167 where the non-final Office action will be remailed and the period for reply reset.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions